

Procedure No. 2161P
Instruction

SPECIAL EDUCATION AND SPECIAL SERVICES FOR ELIGIBLE STUDENTS

Funding

WSD will apply annually for federal Part B and state special education funding to assist in the provision of special education and any necessary related services. This funding is in addition to WSD's state institutional funding.

Services to eligible special education students age 3 to 21 will be provided without charge to the student. This does not include incidental fees that are normally charged to all students. WSD's special education services will meet state education standards. Special education services will include preschool, elementary and secondary education and will be provided in conformance with the student's Individual Education Plan.

WSD provides special education services for students, regardless of the funding source. Where WSD is unable to provide all or part of the special education or necessary related services, it will make arrangements through contracts with other public or non-public sources, interdistrict agreements or interagency coordination.

Students Covered by Public or Private Insurance

WSD may use Medicaid or other public insurance benefits programs in which a student participates to provide or pay for special education services, as permitted by the public insurance program. However, WSD shall not:

- Require parents to sign up for or enroll in public insurance programs in order for their student to receive under Part B of the IDEA; special education services.
- Require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;
- Use a student's benefits under a public insurance program if that use would:
 - Decrease available lifetime coverage or any other insured benefit;
 - Result in the family paying for services required after school hours that would otherwise be covered by the public insurance program;
 - Increase premiums or result in discontinuation of insurance; or
 - Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

WSD may access a parent's private insurance proceeds to provide special education services to an eligible student only if the parent provides informed

consent. Whenever WSD proposes to access the parent's private insurance proceeds, WSD shall:

- Obtain parent consent in accordance with Chapter 392-172 WAC; and
- Inform the parents that their refusal to permit WSD to access their private insurance does not relieve WSD of its responsibility to ensure that all required services are provided at no cost to the parents.

To avoid financial cost to parents who would otherwise consent to use private insurance, or public insurance if the parent would incur a cost, WSD may use its Part B funds to pay the cost the parents would incur.

Parent Participation and Meetings

WSD encourages parental involvement and the exchange of information regarding parents' children so that WSD is able to provide appropriate services to its students. As used in these procedures, the term "parent" includes parents, legal guardians, persons acting in the place of a parent, such as relatives and stepparents, persons appointed as surrogate parents, and adult students.

Parents (and as appropriate, students) will be provided the opportunity to participate in any meetings with respect to the identification, evaluation, educational placement and provision of special services.

When a meeting is scheduled for matters other than IEP or placement decisions parents will be:

- Notified of the meeting early enough that they will have an opportunity to attend; and
- Notified of the purpose, time, location of the meeting and who will be in attendance.

When a meeting involves an IEP or placement, notification procedures described in the previous paragraph apply. In addition to the above notice requirements:

- Meetings shall be scheduled at a mutually agreeable time and place;
- Parents will be notified that WSD or the parent may invite others who have knowledge or special expertise of the student. Invitation of others having knowledge or special expertise is at the discretion of the party making the invitation.
- When the meeting involves transition needs or services, the student will also be invited.
- If another agency is or may be responsible for payment or provision of transition services, an agency representative will be invited. If the agency representative can not attend the meeting, WSD personnel shall keep the representative informed of the meeting and obtain agency information that will assist in the service provision.
- WSD shall provide interpreters or accommodations necessary for a parent's participation in meetings.

The building supervisor or designee shall be responsible for notification, form use and other arrangements for all IEP meetings.

If neither of the parents can attend the IEP or placement meeting but wishes to participate, WSD will arrange for other means to participate. This can include individual or conference phone calls, video or other means of conferencing.

WSD may proceed with the IEP or placement meeting if WSD is not able to get the parent to attend. In this case, WSD will document its attempts to arrange the meeting. This documentation will include records of telephone calls and the results, copies of correspondence sent to the parent, and/or other means used to contact the parent.

A meeting does not include informal or unscheduled conversations involving WSD personnel; conversations on issues such as teaching methodology, lesson plans, coordination of service provisions; or preparatory activities that WSD personnel engage in to develop a proposal or a response to a parent proposal to be discussed at a later meeting.

Identification and Referral (CHILDFIND)

The Washington School for the Deaf is both a secondary service provider to LEAs throughout the state of Washington and a state school, therefore has no authority or district area to conduct child find activities. However, WSD will assist LEAs and ESDs in their process of locating and evaluating children that are deaf and hard of hearing. The School will also assist LEAs and ESD in networking with appropriate service providers and resources.

Referral

A student who is a resident of the state, may be referred to WSD for special education by any source to the School. The building supervisor and/or designee will be responsible for receiving referrals for special education and ensuring that all parties understand the referral process.

Referrals are required to be in writing unless the person referring is unable to write. A person who makes a referral orally should be asked either to make the referral in writing or go to the Superintendent's office for assistance in making the referral.

When a referral is made regarding a student, the School must act within a 25 school-day timeline to decide whether an evaluation is warranted. All certificated employees will document referrals immediately upon a referral being made to them. All other staff receiving a referral from another person shall notify the building supervisor as soon as possible.

The building supervisor's office:

- Documents the referral.
- Provides written notice of the referral to the parent.
- Collects and reviews school data and information provided by the parent to determine whether evaluation is warranted.

During the referral period the building supervisor or designee will collect and review existing information from all sources, including parents. Examples of information to be reviewed include, but are not limited to:

- Child's history, including developmental milestones.
- Report cards and progress reports.
- Individual teacher's or other provider information regarding the child.
- Assessment data.
- **Medical information, if provided.**
- Other information that may be relevant to assist in determining whether the child should be evaluated.

If the review of data occurs at a meeting, the parent will be invited. The building supervisor or designee provides written notice to the parent of the decision regarding evaluation, whether or not the parent attends the meetings.

Recommendations regarding evaluation are forwarded to the building supervisor or designee if the determination is that the child should be evaluated, the reviewers shall include information about the recommended areas of evaluation. This information will assist the building supervisor or designee in providing the parent written notice and will assist the School in selecting appropriate evaluation group members. The building supervisor or designee is responsible for notifying the parent of the results using the procedures set forth in WAC 148-171-500 and WAC 392-172-302 (referred to herein as "written prior notice"). When the determination is that the child will be evaluated, parental consent for evaluation and consent for release of appropriate records will be sent with the notice in accordance with the School's Admissions Procedure (attached) guidelines. If the determination is that the child will not be evaluated, the building supervisor or designee will provide the parent written notice that further evaluation is not needed, within a reasonable time.

All information obtained in the referral, screening, and/or evaluation processes will be maintained in a manner that ensures confidentiality, as required by Chapters 148 and 392-172 WAC.

Evaluation and Eligibility

The purpose of evaluation is to determine eligibility and to obtain enough information to develop the IEP, if eligible. Evaluation activities and procedures are used to determine whether:

- The student has a disability that adversely affects educational performance; and

- The student requires special education and any necessary related services, and,
- The nature and extent of special education and related services needed by the student.
- The student requires supplementary aids and/or services.

Evaluations of students are to be completed within 35 school days after parent consent, or after consent is overridden in a due process hearing. If staff is unable to obtain voluntary parental consent and those reviewing the data believe that the student is appropriately identified for evaluation, the special education department shall arrange an opportunity to ask the parent to agree to mediation or proceed with a due process hearing to request that the school be allowed to conduct the evaluation.

Evaluation activities include:

- Determining the student's eligibility and need for special education and related services.
- Measuring the student's present levels of functioning, needs, abilities, and limitations;
- Drawing conclusions about the significance of findings as they relate to the general education curriculum and instructional programming;
- Providing information that will assist the IEP team in making decisions about the special educational program, including necessary related services, assistive technology needs, extended school year services and supportive services.

WSD will evaluate the student in all areas related to the suspected disability and sufficiently comprehensive to identify special education and related services needs, whether or not the needs are commonly linked to a particular disability category. Areas of evaluation should include, if appropriate, health, vision, hearing, social skills, emotional status, general intelligence, academic performance, communication skills, and motor abilities.

WSD shall select the members of the evaluation group. Members selected must be knowledgeable about the student and the areas of his or her suspected disabilities. Qualifications of a group member include having the appropriate professional license or certification, and may include outside practitioners when necessary. If the student requires a medical evaluation in order to determine eligibility, WSD will coordinate with the parents to arrange for the evaluation.

When WSD suspects the student may have a learning disability, the evaluation group will also include the parent and the general education teacher or if the student does not have a teacher, someone qualified to teach a student of that age.

The evaluation group shall use a variety of methods, tools, and strategies designed to gather relevant function and developmental information. The evaluation does not rely on one source or procedure as the sole criterion for determination and should, to the extent available, include:

- Review of existing data;
- Relevant functional and developmental information;
- Information from parents;
- Information from other providers;
- Information related to enabling access to and progress within the general education curriculum and assisting in determining whether there is a disability and the content of the IEP;
- Current classroom-based evaluations, using criterion-referenced and curriculum-based methods, anecdotal records, and observations;
- Teacher and related service providers' observations; and
- Testing and other evaluation materials, which may include medical or other evaluations when necessary.
- For students under three years of age who were previously determined eligible under the category "developmentally delayed," the student must be evaluated for eligibility for Part B before their third birthday.

Determining Needed Evaluation Data:

The evaluation group members select the specific assessments to be used in the evaluation, based on a review of existing data and the student's particular needs. The review of the existing data should include the evaluation group members, the parents, and other persons who would be members of the IEP team if the student is determined eligible. If it is determined that no additional testing data is necessary to make a decision about eligibility, the parents will be notified of that no additional testing is necessary and of their right to request additional assessments.

When additional assessments are necessary, the group members have the responsibility of selecting, administering, interpreting, and making judgments about evaluation methods and results, and ensuring that the tests and assessments are administered by qualified personnel in accordance with the instructions of the test producer. The evaluation group shall use a variety of methods, tools and strategies designed to gather relevant functional and developmental information. The evaluation will not rely on one source or procedure as the sole criterion for determination. WSD will follow the evaluation procedures outlined in WAC 392-172-106 through 10900.

Evaluation Report

Each person conducting an assessment of the student will specify the procedures and instruments used and their results and the significance of findings related to the student's instructional program, including a specification of the factors interfering with performance and the special education and related services needed.

The evaluation group will determine who is most appropriate to develop the evaluation report reflecting the evaluation information. This will be completed before the conclusion of the evaluation period and will, at a minimum:

- Identify the disability which requires special education and related services, if a disability exists;
- How the disability or disabilities affect the student's involvement and progress in the general curriculum;
- Make recommendations to the IEP team with respect to special education and special services needed including SDI (specially designed instruction).
- Other information, as determined through the evaluation process and parent input needed to develop and IEP;
- Include the additional information required for the specific learning disability eligibility category;
- Provide any necessary professional judgments and the facts or reasons in support of the judgments; and
- Be signed and dated by the evaluation group members certifying their agreement. Any group member who disagrees with the conclusions shall prepare a statement presenting his or her conclusion.

The building supervisor or designee is responsible for notifying the parent in writing of evaluations meetings in accordance with Washington state's Administrative Code.

Eligibility

The evaluation group and the parent will determine whether or not the student is a special education student.

- A student is not eligible if the determinant factor is lack of instruction or limited English proficiency.
- Eligibility may be determined by documented professional judgment when
 - properly validated tests are unavailable, or
 - corroborating evidence indicates that results were influenced due to measuring a disability.
- Eligibility is not to occur when the determinant factor is a lack of instruction in reading or mathematics. The parent will be provided with a copy of the evaluation report and the documentation of determination of eligibility.
- Eligible students will be between the ages of 3 and 21
- Eligible students will have a documented adverse educational effect
- Eligible students needs cannot be addressed in general education classes with or without accommodations

The parent will be provided with written notice of the eligibility decision within 10 school days of the decision. The building supervisor or designee is responsible for sending notice.

Eligible students remain eligible for special education services until one of three events occur:

- The student is determined through a reevaluation to no longer need special education;
- The student has met WSD's high school graduation requirements; or
- The student has reached age 21. A special education student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year.

When a special education student is expected to graduate prior to age 21, or when graduation is part of the transition plan, the IEP team will document a student's progress towards achieving course credits towards graduation on the transition portion of the IEP. WSD will provide prior written notice to parents and adult students that the student is expected to graduate and will no longer be eligible for special education services at least 6 months before graduation.

Reevaluation

Every special education student will be reevaluated at least every three years using the evaluation procedures. Reevaluations may occur more frequently if the student's situation warrants a reevaluation or if requested by the parent or teacher.

Students who turn six who met the eligibility requirements for the disability category of "Developmentally Delayed", under the criteria for ages three to six years need not be reevaluated at age six under the criteria for six to nine years until three years after their initial evaluation was completed and their eligibility was established in the age three to six category.

Students who were previously eligible under the category "Developmentally Delayed" must be re-evaluated before age nine to determine eligibility within another category.

The reevaluation process shall be completed within 35 school days after the parent's consent or within 35 school days after a parent's refusal to consent is overridden by a due process decision, and not later than three years after the previous eligibility determination.

As part of any reevaluation, the IEP team members and other professionals WSD determines appropriate will review existing data that includes:

- evaluations and information provided by the parents,
- current classroom-based assessment and observations, and
- observations by other teachers and related services providers data.

Based on this review the team will determine whether any additional data is necessary to determine:

- whether the student continues to be eligible for special education and any necessary related services,
- the present levels of performance and educational needs, and
- whether any additions or modifications to the student's program are needed.

This review can occur at a meeting or through individual review. If the IEP team members and any other persons reviewing the data determine that no further testing is necessary, WSD will notify the parents of this determination, using written prior notice and will inform parents that they have the right to request assessments if they disagree with the determination that additional testing is not necessary.

If additional testing is needed, WSD will request written parental consent for reevaluation. If the parents do not return the signed consent form WSD shall send another letter explaining the need for reevaluation and parent consent, and will enclose another consent form and a copy of the prior written notice. If the parents do not respond to the request for consent, WSD will proceed with the reevaluation. If the parents refuse to consent, WSD will seek mediation in order to obtain consent, or, if necessary, a request a due process hearing to order reevaluation.

After the reevaluation is completed, WSD will invite parents to the eligibility meeting and will provide prior written notice of the results of reevaluation to parents in their primary language, indicating one or more of the following:

- Whether the student continues to be eligible and in need of special education
- Present levels of performance and educational needs of the student, and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet IEP annual goals and to participate, as appropriate, in the general curriculum.

This notice will occur within 10 school days of eligibility decision. The building supervisor or designee is responsible for sending the notice.

Independent Educational Evaluations

Parents of special education students, or students who have been referred for special education have a right to request an independent educational evaluation at public expense.

The following criteria for the selection of an individual to conduct an independent educational evaluation at public expense are established for the purpose of identifying the knowledge, experience and qualifications of individuals selected to conduct the evaluations; guaranteeing the selection of local professionals who

can maintain any necessary ongoing contact and consultation with WSD; and ensuring that such evaluations are conducted at reasonable fees commensurate with the usual and customary rate in this geographical area. Any individual selected to conduct an independent educational evaluation must be:

- Licensed, credentialed or otherwise qualified within the state of Washington/Oregon or state of residence/practice to perform an evaluation in the specific professional discipline for which an independent evaluation is sought.
- Knowledgeable and experienced in evaluating children with similar disabilities.
- Geographically located within the states of Washington/Oregon.
- Available to WSD at a maximum fee which does not exceed by more than 25% the prevailing average for similar evaluations within the state of Washington.

Exceptions to the criteria will be granted only when it can be shown that the unique circumstances of the child or the disability:

- Make it impossible to identify anyone within the state of Washington who holds the appropriate credentials or experience necessary to conduct the evaluation; or
- Require a specialized evaluator whose fee exceeds the prevailing average by more than 25%; or
- Include factors which would warrant an exception in order to obtain an appropriate evaluation.

When parents request an independent educational evaluation WSD must decide within fifteen calendar days whether or not to provide it. Any parent request for an independent evaluation should be immediately referred to the Director of Special Education & Academic Programs' office. The Director of Special Education & Academic Programs shall review the request and determine whether or not the request is warranted. If WSD denies the request it must file for a due process hearing. WSD may request mediation as an option, after filing the due process hearing. If the parents withdraw their request for an independent educational evaluation the due process hearing can be dismissed.

Individualized Education Programs

Transitions of Birth to Three Students to Preschool

WSD will participate in transition planning conferences, arranged by the designated Part C lead agency, for each student who may be eligible for preschool services. Transition plans will be designed to promote uninterrupted provision of appropriate services to the child.

- Transitioning planning conferences shall be convened, with the approval of the family of the child, at least ninety calendar days (or at the discretion of all parties up to six months) before the student's third birthday. Planning

conferences should include determinations of the need for re-evaluation, if appropriate.

- The transitioning planning conferences will include representatives of the Part C lead agency, the family, and WSD.
- Participants will review the child's program options for the period from the child's third birthday through the remainder of the school year.
- By the student's third birthday, an IEP will be developed and implemented. If the third birthday is not during the school year and when appropriate the IEP may set a start date of the beginning of the school year.

IEP Development

The IEP is the written statement reflecting the implementation of instructional programs and other services for special education students. It is intended as a practical method of addressing from the evaluation results the identified needs of the student which include special education, any necessary related services, and any other services necessary for the student to progress towards meeting his or her goals in the IEP.

An IEP must be in effect before initiation of special education services at WSD. An IEP must be developed no later than thirty calendar days after an initial determination of eligibility for special services.

Additionally, parental consent is required for placement and the provision of special education services, if a parent is enrolling under the parental preference law (RCW 72.40.080), before the initial provision of special education services. Parent consent is not required after initial eligibility is established.

IEPs must be updated annually. IEP's may be revised more frequently as needed to adjust the program and services.

WSD will maintain a copy of the current IEP in the location(s) serving the special education student. The IEP is accessible to all staff members responsible for providing education, other services or implementation of the IEP. All staff members will be informed of their responsibilities for its implementation. This includes not only teachers and other service providers, but also bus drivers, playground and lunchroom supervisors, nursing staff and others who may be responsible for the proper implementation. The Director of Special Education & Academic Programs' office is responsible for ensuring that staff members are knowledgeable about their responsibilities.

IEPs will be implemented without undue delay following IEP meetings, regardless of the payment source for special education and or related services.

Parents are members of the IEP team and shall have the opportunity to fully participate. WSD will make sure that the parents understand the proceedings, including arranging for an interpreter for parents who are deaf or whose native

language is other than English. WSD will also ensure that meeting locations are accessible. The building supervisor's office is responsible for coordinating interpreters and making arrangements for the meeting location.

The IEP team includes:

- The parents of the student;
- At least one general education teacher (or preschool teacher) of the student if the student is or will be participating in the general education environment; The general education teacher (or preschool provider), as a member of the IEP team, must, to the extent appropriate participate in the development, review and revision of the student's IEP including assisting in the determination of appropriate positive behavioral interventions and strategies for the student and the determination of supplementary aides and services, program modification, and supports for school personnel that will be provided to the student.
- At least one special education teacher, or if appropriate, at least one special education provider of the student.
- A representative of WSD, who is qualified to provide or supervise the provision of special education and related services, is knowledgeable about general education curriculum, and is knowledgeable about the availability of WSD resources.
- An individual who can interpret the instructional implications of the evaluation results.
- Any other individuals who have knowledge or special expertise about the student. These individuals may be invited by both WSD and the parents, at the discretion of the person making the invitation.
- The student, when appropriate, or when required.
- Transition participants when required.
- A representative of the resident school district.

Existing team members may fill more than one of these roles if they meet the criteria for the role.

Refer to the Parent Participation and Meetings for the requirements of a parent invitation to IEP meetings.

Sometimes parents do not attend IEP meetings. Additionally, there will be times the parents do not agree with the IEP as proposed, and despite attempts to reach agreement on IEP content, the team does not reach agreement. If a parent attends the IEP meeting and agreement is not reached on the IEP, the team shall determine whether another IEP meeting should be scheduled as soon as mutually possible, or whether there is enough information to complete the IEP.

When the parents do not attend despite WSD's efforts to ensure participation, or if the team does not reach agreement, it is WSD's obligation to offer an appropriate educational program:

- Have IEP members present sign the IEP (*or document participation if any member is unwilling to sign*).
- Send a copy to the parent, and provide the parent prior written notice that WSD intends to implement the IEP.
- Forward the documentation of actual or attempted contacts to the student's resident school district for processing when parents do not attend the meeting.

IEP Preparation and Content:

IEP teams will consider the recommendations in the most recent evaluation, current classroom, audiologic, speech/language and other support service reports and past IEP to develop the IEP. In developing the IEP, the team should consider:

- The strengths of the student and concerns of the parents for enhancing the education of their child;
- The results of the initial evaluation (most recent);
- As appropriate, the results of the student's performance on general state or School-wide assessment programs;
- Whether a behavior plan, including positive supports and possible aversive interventions should be considered;
- Whether the student with limited English proficiency has language needs;
- Whether a student has other language and communication needs; and
- Whether assistive technology devices or services are needed.

IEP content includes:

- The student's present levels of educational performance with a description of how the disability(ies) affect the student's involvement and progress in the general curriculum or preschool activities.
- Measurable annual goals for the student including benchmarks or short term objectives that will meet the student's needs resulting from the disability(ies) to enable involvement and progress in the general curriculum or in preschool activities, and will meet the student's other educational needs.
- A statement of special education services, any necessary related services, and supplementary aids and services to be provided to the student and program modifications or supports for personnel so that the student may advance towards annual goals, progress in the general curriculum and be educated and participate with other special education students and non-disabled students and participate in extracurricular and other nonacademic activities.
- A statement of the extent, if any, that the student will not participate with non-disabled students in general classroom, extra-curricular and non-academic activities.
- A statement of any modification in the administration of state or district-wide assessments of student achievement that are needed to allow the

student to participate in the assessments. If the team determines that the student will not participate in a particular assessment, the IEP will address why that assessment(s) is not appropriate and how the student will be assessed.

- The date for the beginning of services and the anticipated frequency, location and duration of services and modifications.
- A statement of how the student's progress towards goals will be measured, how the student's parents will be regularly informed of their child's progress towards the annual goals and whether the progress is sufficient to enable the student to achieve the goal by the end of the year. Information to the parents can be provided through the use of progress reports or report cards or other agreed means, but the information must be provided at least as often as information is provided to students without disabilities.
- Beginning at age 14, or sooner if the IEP team determines it is appropriate, a statement on transition service needs under the applicable components of the IEP that focus on the student's courses of study.
- Beginning at age 16, or sooner if the IEP team determines it is appropriate, a statement of needed transition services and any interagency responsibilities or needed linkages.
- At least one year prior to the student's 18th birthday, a statement that the student has been informed of his or her rights under Part B of the IDEA, if any, that will transfer to him or her upon reaching age 18.
- Aversive interventions, if appropriate. Any interventions considered must be provided by trained staff and only considered after the determination has been made that positive interventions alone are not effective. Any questions about the need for or use of aversive interventions should be referred to the Director of Special Education & Academic Programs' office. When aversive interventions are considered the IEP team will include a certificated employee who understands the appropriate use of interventions and concurs with the need and shall include a person who works directly with the student.
- Extended school year services. The consideration for extended year services is a team decision, based on information provided in the evaluation report and based on the individual needs of a student. Extended school year services are not limited by categories of disability, or limited by type amount or duration of the services. If the need for extended school year services is not addressed in the IEP and extended school year services may be appropriate for the student, the IEP team will meet by an agreed-upon date to address the need for ESY. Factors for the team to consider when determining the need for ESY may include, but are not limited to:
 - documentation of regression or difficulty regaining skills during pre and post-school breaks;
 - acute/chronic health problems negatively impact the student's education;

- a student is beginning to show progress in a critical skill and the team determines that an extended program is appropriate; or
- a student is not making progress despite changing objectives, methods, materials, placement or time.

Transfer Students

Students who transfer from one district to another within the state continue to be eligible for special education and any necessary related services. When a special education student transfers to WSD the attached Admissions Procedures is followed.

Placement

No student may receive special education and related services without being determined eligible for services, and thus the evaluation process precedes a special education placement. When a student has been evaluated and the evaluation team and parent have determined student eligibility and the need for special education and related services, programming decisions must occur. These decisions are made on the basis of information generated through the evaluation and IEP processes, and the actual program is considered within the context of least restrictive environment (LRE) and the continuum of placement alternatives (reviewed below). When determining initial eligibility for special education, including determination of the appropriate placement, the parent or adult student must provide written consent to services before the student receives special education services. Notification to parents, and consent to receive initial services must be obtained before special education services and any necessary related services are provided to an eligible student. If the parents do not consent to the provision of special education and related services, WSD will offer and explain the benefits of mediation. If the mediation option is not effective, WSD will not provide special education services to the student. WSD will notify the parents that the student is eligible for services and that WSD is willing to provide the services when the parent provides written consent.

When programming decisions are addressed by the IEP team, proper consideration must be given to the least restrictive environment. Within the educational setting, the disabled student should be placed, whenever possible:

- In the school the disabled student would normally attend and,
- With non-disabled students in the general educational setting, to the maximum extent possible.

Special classes, separate schools or removal of students with disabilities from the general education environment occurs only when the nature or severity of the disability is such that education in the general education classroom with use of supplementary aids and services cannot be satisfactorily achieved.

If the IEP team believes that the student will not be successful within the general education classroom, the team will consider:

- The educational benefits of placement full-time in a regular classroom
- The non-academic benefits of such a placement

The degree to which the student is to be integrated into the general classroom setting is dependent upon the evaluation-identified needs of the student. This placement is to occur unless the nature of the needs are so severe that this cannot be satisfactorily achieved, even with supplementary aids and services. If the placement is in another building, the appropriate educational placement will be as close to the student's home as reasonably possible.

Within the nonacademic setting, students will be provided nonacademic and extracurricular activities with non-disabled students. Students attending WSD have the opportunity and are encouraged to participate in all activities, during the day, and in related services offered after school and in the evening programs. Limits on nonparticipation or conditions of participation must be designated in the IEP.

WSD will also make opportunities available for special education students to participate with non-disabled students in all programs and related services at WSD. Since WSD is a school for the deaf, with a residential component and all children are considered disabled, the school encourages that children of all abilities and disabilities have access to and participate in activities. WSD also arranges and encourages community interaction/integration.

WSD is a placement option within a continuum of service delivery. WSD does not maintain other placement options except when in the determination of the IEP team, a child should regain placement within the resident school district.

The placement of each student with disability will be determined annually, or sooner if appropriate, by the IEP team.

The appropriateness of placement options will be based upon various decisions, including:

- Data-based judgments in IEP development;
- Judgments (data-based) in determining LRE;
- The reasonable probability of the placement option(s) assisting the student to attain annual goals and objectives and the quality of services needed.
- The reasonable probability of the placement option(s) assisting the student's attainment of annual goals and objectives; and
- The consideration of potentially harmful effects upon the student or on the quality of services needed.

Placement options along the continuum must include alternative placement options identified in the definition of special education and make provisions for supplementary services such as resource room or itinerant instruction to be provided in concert with the general education placement.

Students Unilaterally Enrolled in Private Schools by Parents

Considering that WSD is a specialized state school and is a secondary service provider to districts throughout the state of Washington, this provision would not apply. Students from an LEA that are enrolled in a private school would not be enrolled at WSD.

Procedural Safeguards

Consent

WSD will obtain informed, written parental consent before:

- Conducting an initial evaluation;
- Providing initial special education and related services to a special education student; and
- Conducting a reevaluation.

Parental consent is not required to review existing data as part of an evaluation or reevaluation, or to administer a test or other evaluation that is administered to all students unless consent is required of all students' parents.

Informed consent means that the parent or adult student:

- Has been fully informed of all information that is relevant to the activity for which WSD is asking consent, and that the information is provided in his or her native language or other mode of communication;
- Understands and agrees in writing to the activity for which consent is sought and the consent describes the activity and lists any records which will be released and to whom; and
- Understands that the granting of consent is voluntary and may be revoked at any time. If consent is revoked, the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

WSD may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit or activity of WSD.

If WSD is unable to obtain a parent's consent, WSD will explain the benefits of mediation and ask the parent to mediate. If that is unsuccessful, WSD will request a due process hearing asking the administrative law judge to override the parent's refusal to consent to an evaluation or reevaluation. WSD may not request a due process hearing to override a parent's refusal to consent to initial special education services.

Notice of Procedural Safeguards

WSD shall provide a copy of procedural safeguards to the parents of eligible special education students and students referred for special education, and adult students:

- Upon initial referral for evaluation;
- Upon each notification of a IEP meeting;
- Upon reevaluation of the student;
- Upon receipt of request for due process; and
- Upon a change of placement for disciplinary action.

The procedural safeguard notice used by WSD includes a full explanation of all the procedural safeguards relating to: independent educational evaluation, prior written notice, parental consent, access to educational records, opportunity to present complaints, procedures for students who are subject to placement in an interim alternative educational setting ("IAES"), requirements for unilateral placement by parents of children in private schools at public expense, state complaint procedures, the child's placement during pendency of due process proceedings, including requirements for disclosure of evidence, mediation, due process hearings, civil actions and attorney's fees. Copies of WSD's special education procedural safeguards are available in the Director of Special Education & Academic Programs' office.

Prior Written Notice

WSD will provide prior written notice to the parent or adult student whenever WSD proposes or refuses to initiate or change the identification, evaluation, educational placement or provision of special services.

The prior written notice will include:

- A statement that the parents of a special education student have procedural safeguard protections and if a copy of the procedural safeguards do not accompany the notice, a statement that describes how a copy of the statement of procedural safeguards may be obtained;
- A description of the action proposed or refused by WSD;
- An explanation of why WSD proposes or refuses to take the action and a description of other options that WSD considered and the reasons why the options were rejected;
- A description of any other factors which are relevant to WSD's proposal or refusal;
- A description of each evaluation procedure, test, record, or report WSD used as a basis for the proposal or refusal;
- A description of any evaluation procedures WSD proposes to conduct and sources for parents to contact to obtain assistance in understanding the procedural safeguards provision of this chapter.

Prior written notice and the notice of procedural safeguards must be provided in the native language of the parent or other mode of communication used by the

parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, WSD will take steps to ensure that the notice is translated orally or by other means to the parent. This may involve:

- Arranging for an interpreter if English is not the native language of the parent or if the parent has a hearing impairment; or
- Providing notice orally if the written language is not a native language.

WSD will document in writing the attempts to explain this information so that the parent understands the content of the notice.

Transfer of Educational Rights to an Adult Student

When a special education student reaches the age of 18, all educational rights under Part B of the IDEA, previously exercised by the parent, transfer to the student, unless the student is determined incapacitated as to person in a guardianship proceeding. When the student turns 18, WSD will send any required notices to both the parent and the adult student.

At the IEP meeting occurring one year before the student turns 18, WSD will inform the parents and the student that educational rights will transfer to the student, and WSD will inform the student about those educational rights. This information will be documented on the IEP.

WSD will also notify the student and the parent, of the transfer of rights when the student turns 18.

Confidentiality and Records Management

The Director of Special Education & Academic Programs is responsible for maintaining the confidentiality of personally identifiable information pertaining to special education and all other students. The Director of Special Education & Academic Programs will maintain, for public inspection, a current list of the names and positions of employees who have access to personally identifiable information of special education students. WSD will provide parent and adult students, upon request, a list of the types and locations of educational records collected, maintained, or used by WSD.

WSD will provide instruction annually to employees collecting or using personally identifiable information on the procedures to protect the confidentiality of personally identifiable information. The training will address the protections outlined in WAC 392-172, state law, and federal regulations implementing the Family Educational Rights and Privacy Act, FERPA, (34 CFR Part 99).

Upon request, the parent(s) of a special education student or adult student will be afforded an opportunity to inspect, review and challenge all educational records which shall include, but not be limited to, the identification, evaluation, delivery of educational services, and provision special services to the student. WSD shall

comply with the request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, educational placement of the student or provision of special services to the student, including disciplinary proceedings. In any case, WSD shall respond no more than 45 calendar days after the date WSD received the request. If an educational record includes information on more than one student, the parents (and/or adult student) may only inspect and review information relating to their child. School personnel receiving requests for educational records will immediately forward the request to the Director of Special Education & Academic Programs' office.

If parents believe that information in an education record is inaccurate or misleading, or violates the privacy or rights of the student, they may request that WSD amend the information. Such a request must be in writing to the Superintendent designating the information in question and the reason for the request. The Superintendent shall respond to the requestor with 10 days of the receipt of the request. If the request is granted, the appropriate change, addendum or removal shall immediately occur. If the request is denied, the parent's request and reason for denial shall become part of the student's file. Upon denial, the requestor shall be informed of the right to a hearing as provided in WAC 392.172.420 or WAC 148.280.030.

Surrogate Parents

A surrogate parent is a person appointed by WSD to act on behalf of a student to help ensure the rights of the student to special services offered by WSD when a parent cannot be identified, the whereabouts of the parent are unknown or the student is a ward of the state.

The Director of Special Education & Academic Programs' office, in consultation with the Superintendent's office is responsible for determining the need for appointment of a surrogate parent.

Natural or adoptive parents, persons acting in the place of a parent such as stepparents or relatives, and persons with legal custody or guardianship are considered parents.

When a child is in foster care, WSD must determine, when a parent can be identified or the whereabouts of the parent are known, whether or not the parent still has rights to make educational decisions on behalf of their child.

The following is guidance for WSD to follow to assist in determining the status of the parent's rights to make educational decisions:

In cases where the student is in foster care WSD must determine the legal custodial status of the child.

- Parents who have voluntarily placed their child in foster care still retain legal custody of the child and retain the right to make educational decisions.
- Parents whose children are placed in foster care, pending a determination of "dependency" still retain rights to make educational decisions unless otherwise ordered by the court.
- When a disposition order and order of dependency is issued, the state becomes the legal as well as physical custodian of the child. Parents may no longer have the right to make educational decisions during this stage of dependency.
- Parent's whose parental rights are terminated no longer have the right to make educational decisions on behalf their child.

When a student is placed in foster care, WSD will work with the parents, case-worker(s), foster parents, and others who have knowledge of the student's legal status in order to determine the need for appointment of a surrogate. When a child's relative is the foster parent, and the parent does not have the right to make educational decisions, WSD may consider that person acting in place of the parent and does not need to appoint a surrogate.

When selecting a surrogate parent WSD will select a person willing to participate in making decisions regarding the student's educational program, including participation in the identification, evaluation, placement of, and provisions of special services to the student.

If a student is referred for special education or a special education student transfers to WSD who may require a surrogate parent WSD's Director of Special Education & Academic Programs' office will then select a trained individual who can adequately represent the student to ensure that all student rights are observed.

The person selected as a surrogate:

1. Must have no interest that conflicts with the interests of the student he or she represents;
2. Must have knowledge and skills that assure adequate representation of the student; and
3. May not be an employee of WSD and/or other public agency which is involved in the education or care of the student. Public agencies include OSPI, DSHS in addition to WSD employees.

WSD may appoint as surrogate parents, non-public agency employees involved in the care of the student, and other persons who meet the standards described above.

WSD will at a minimum, review with the surrogate parent procedural safeguards, parent involvement in the special education process, parent education publications, and special education regulations. WSD will also cooperate with other districts, the ESD or OSPI in training surrogate parents and in establishing a list of persons willing and able to serve as surrogate parents.

Mediation

The purpose of mediation is to offer both the parent and WSD an alternative to a formal due process hearing. Mediation is voluntary and requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing. Mediation is used to resolve disagreements concerning the identification, evaluation and delivery of educational services or provision of special services to a special education student. Mediation may be terminated by either party at any time during the process.

The primary participants are the parent(s), WSD representative(s), and mediator. The process is voluntary, confidential, and informal. It is a collaborative process, conducted in a non-adversarial manner. Mediation services will be provided by the office of superintendent of public instruction (OSPI) at no cost to either party.

A request for mediation services from WSD will be made in writing to OSPI's contracted agent by WSD's Director of Special Education & Academic Programs' office. If a parent requests mediation, notify the director, and the director will respond to the parent and file appropriate requests with OSPI's contracted agent. Staff members are reminded that discussions that occur during the mediation process shall be confidential.

Due Process Hearing

WSD will have due process hearing forms, available from OSPI, available for parents' use to request a due process hearing. Parents will be informed of the need to notify the school district of requests for due process hearings and informed that the request for hearing should include: 1) the name of the student 2) address of the residence of the student 3) the name of the school the student is attending 4) a description of the nature of the problem, including facts relating to the problem and 5) a proposed resolution of the problem to the extent known based on the information available to the parent. WSD will inform parents that failure to provide the notice will hamper WSD's availability to assist the student and could ultimately result in a reduction of attorney fees.

Parent requests for hearing should immediately be forwarded to the Director of Special Education & Academic Programs' office. If the parent has not filed the request for hearing with OSPI legal services, WSD will forward the parent request to OSPI Legal Services. WSD may not delay or deny a parent's due process hearing request.

When a parent files a due process hearing, the student remains in the placement he or she was in at the time of the request for hearing unless the parents and WSD agree to a different placement. See the discipline section below for placements when a disciplinary action is challenged.

Discipline

Special education students must not be improperly excluded from school for disciplinary reasons. WSD shall take steps to ensure that each employee, contractor and other agent of WSD responsible for education or care of a special education student is knowledgeable of WAC 392-172-370 through 392-172-385. WSD shall not authorize, permit or condone the use of disciplinary procedures that violate the rules and chapter 180-40 WAC, by any employee, contractor or agent of WSD responsible for the education or care of a special education student.

Authorized school personnel may order the removal of a special education student from his/her current placement for not more than ten consecutive school days, and additional removals of not more than ten consecutive school days in the same school year for separate instances of misconduct, as long as those additional removals do not constitute a change of placement under WAC 392-172-373(2), to the extent such removal would be applied to students without disabilities.

WSD need not provide services to a special education student removed from his/her current placement for ten school days or less in any school year, if services are not provided to a student without disabilities who has been removed. WSD shall provide services to a special education student who has been removed for additional periods of ten school days or less, as long as there has been no change of placement under WAC 392-172-373(2), to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving goals set out in the student's IEP. School personnel, in consultation with the student's special education teacher, shall make the determination of such necessary services.

A change of placement occurs when a special education student is:

- removed from his/her current placement for more than ten consecutive school days in a school year, or
- subjected to a series of removals cumulating to more than ten school days in a school year and which constitute a pattern of removal because of factors such as the length of each removal, the total amount of time a student is removed, and the proximity of the removals to one another.

If a disciplinary action constituting a change of placement is contemplated, WSD shall notify the student's parents of that decision, provide the procedural safeguards notice described in Chapter 392-172 WAC, and provide any other notices required under Chapter 180-40 WAC, not later than the date on which the

decision to remove the student is made. WSD shall also conduct a "manifestation determination" of the relationship between the student's disability and the behavior subject to the disciplinary action immediately, if possible, but in no case later than ten school days after the date on which the decision to remove the student is made.

To the extent hearing processes available to all students under Chapter 180-40 WAC are invoked by a special education student and his parents, WSD shall transmit the student's special education and disciplinary records for consideration of the person(s) making the final determination in said hearing.

The review of the relationship between a student's disability and the behavior subject to the disciplinary action shall be done in a meeting by the IEP team and other qualified personnel. This may be the same meeting as that convened for the IEP team to address a functional behavioral assessment and behavioral intervention plan.

The team may determine that the behavior was not a manifestation of the student's disability only if the team first considers all relevant information, as described in WAC 392-172-38305(1) and then determines that:

- in relationship to the behavior, the student's IEP and placement were appropriate and that special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with said IEP and placement;
- the student's disability did not impair his/her ability to understand the impact and consequences of the behavior; and
- the student's disability did not impair his/her ability to control the behavior.

If the team determines that any of the above standards were not met, the behavior must be considered a manifestation of the student's disability and the contemplated disciplinary action shall not proceed. If the review identifies deficiencies in the student's IEP or placement, or in their implementation, WSD shall take immediate steps to remedy those deficiencies.

If, however, the results of the manifestation determination review indicate that the behavior was not a manifestation of the student's disability, the special education student may be disciplined in the same manner as a student without disabilities, subject to the requirement that special education services shall continue to be made available to special education students consistent with Chapter 392-172 WAC. The determination of the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP, during the period of disciplinary removal constituting a change of placement, shall be made by the IEP team.

Within ten business days after first removing a special education student for more than ten school days in a school year, WSD shall take the following action:

- If a functional behavioral assessment was not previously conducted and a behavioral intervention plan implemented for the student before the behavior occurred that resulted in the removal, an IEP meeting shall be convened to develop an assessment plan.
- If the student already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and modify it, as necessary, to address the behavior.

As soon as possible after developing the plan described above and completing the assessments required by the plan, WSD shall:

- convene an IEP meeting to develop appropriate behavioral interventions to address the behavior that resulted in the removal, and
- implement those interventions.

In the event of any subsequent removal that does not constitute a change of placement for a student who has a behavioral intervention plan and who has previously been removed for more than ten school days during the school year, the IEP team shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more team members believe that modifications are necessary, the IEP team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

School personnel may order a change in placement to an appropriate interim alternative educational setting for the same amount of time that a student without disabilities would be subject to discipline, but for not more than 45 days, if a special education student:

- possesses a "dangerous weapon," as defined in WAC 392-172-371(3), or carries such a weapon to school or to a school function; or
- knowingly possesses or uses "illegal drugs," as defined in WAC 392-172-371(2), while at school or a school function; or
- sells or solicits the sale of a "controlled substance," as defined in WAC 392-172-371(1), while at school or a school function.

Any interim alternative educational setting in which the student is placed is determined by the student's IEP team and will:

- Be selected so as to enable the student to continue to progress in the general curriculum and to continue to receive services and modifications, including those specified in the student's IEP, that will enable the student to meet the goals in the IEP; and
- Include services and modifications designed to address the behavior, to prevent the behavior from recurring.

WSD may ask a hearing officer, or seek injunctive relief through a court having jurisdiction of the parties, to order a change in placement to an appropriate

interim alternative educational setting, for not more than 45 calendar days, or seek injunctive relief through a court having jurisdiction of the parties, when:

- WSD can demonstrate beyond a preponderance of the evidence that maintaining said student's current placement is substantially likely to result in injury to the student or others;
- WSD has made reasonable efforts to minimize the risk of harm in the current placement, including the use of supplementary aids and services; and
- The proposed interim alternative educational setting has been proposed by school personnel in consultation with the student's special education teacher and meets the requirements of WAC 392-172-381(1) and (2).

Unless the parent and WSD agree otherwise, if a parent requests a hearing to challenge either the manifestation determination or the interim alternative educational setting, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five day period, whichever occurs first.

If WSD proposes to change a student's placement, after expiration of a forty-five day interim alternative educational setting ("IAES"), and the parent requests a hearing to challenge the proposed change in placement, the student's "stay put" placement is his/her placement prior to the IAES, unless WSD requests an expedited due process hearing in accordance with WAC 392-172-38405(3) and proves that it is dangerous for the student to return to said placement.

A student who has not been determined eligible for special education services may assert the protections under WAC 392-172-370 through 385 if WSD had knowledge that the student was a special education student before the behavior that precipitated disciplinary action occurred.

WSD is deemed to have knowledge if:

- the parent expressed concern in writing (or orally, if the parent does not know how to write or has a disability that prevents a written statement) to personnel that the student is in need of special education,
- the behavior or performance of the student demonstrates the need for special education services,
- the parent requested that the student be evaluated for special education services, or
- the teacher or other school personnel has expressed concern about the behavior or performance of the student to the Director of Special Education & Academic Programs' office.

If instituting disciplinary action that would exceed ten days, and the building supervisor believes that one or more of these events applies to the student, he or she will notify the special education department to determine the appropriate disciplinary procedures.

WSD is not deemed to have knowledge if as a result of receiving the information described above, WSD either:

- Conducted a special education evaluation of the student and determined that the student was not eligible for services; or
- Determined through the referral process that evaluation was unnecessary; and
- Provided prior written notice to the parents of its determination.

If WSD is not deemed to have knowledge that a student is a special education student, (s)he may be disciplined as a student without disabilities who engages in comparable behaviors. WSD shall conduct an evaluation, which is requested during the time period such a student is subjected to disciplinary measures, in an expedited manner. Until the evaluation is completed, such a student shall remain in the educational placement determined by WSD, which can include suspension or expulsion/change of placement without educational services.

Notwithstanding the foregoing, WSD may report a crime committed by a special education student to appropriate authorities. In the event of such a report, WSD shall ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the crime is reported, to the extent transmission of the records is permitted by the Family Educational Rights and Privacy Act (FERPA).

Staff Qualifications

All employees of WSD funded in whole or part with state or federal excess special education funds will meet the standards established by the state board of education and defined in WAC 392-172-200 and -202.

All employees will hold such credentials, certificates or permits as are now or hereafter required by the state board of education for the particular position of employment and shall meet such supplemental standards established by WSD.

All special education teachers providing, designing, supervising, evaluating or monitoring the provision of special education shall possess "substantial professional training." This shall be shown by the issuance of an appropriate special education endorsement on an individual teaching certificate issued by the superintendent of public instruction.

In the event a special education teacher does not have a certificate endorsed in special education, WSD may apply for a pre-endorsement waiver through the special education section of the OSPI. A teacher must hold a valid general teaching certificate, and have completed twenty-four credit hours or sixteen semester credit hours of required special education course work and complete the remaining credit and endorsement requirements within three years of service as a special education teacher.

If WSD must temporarily assign a classroom teacher without a special education endorsement to a special education position, WSD's Director of Special Education & Academic Programs' will document in writing that:

- WSD is unable to recruit a teacher with the proper endorsement who was qualified for the position; and/or
- The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practical; and/or
- The reassignment of another teacher within WSD would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned to the other teacher.

If one or more of these criteria can be documented, WSD determines that a teacher has the competencies to be an effective special education teacher, and the teacher has completed six semester hours or nine quarter hours of course work which are applicable to the special education endorsement, WSD can assign the teacher to special education in compliance with the process for making out-of-endorsement assignments and reporting them to the state.

Classified staff will present evidence of skills and knowledge necessary to meet the needs of students with disabilities. WSD will provide training to classified staff to meet the state recommended core competencies.

Personnel Development

In order to provide a staff development program to improve the quality of instructional programs, the following procedures will be employed:

- Special education concerns will be identified through a staff needs assessment completed by administrators, teachers, educational staff associates, program assistants, parents and volunteers;
- Training will be provided annually to all personnel who may be providing aversive interventions under a student's IEP.
 - Inservice training schedules will be developed based upon the results of WSD assessment and in support of needs identified and
 - Training activities will be conducted for regular general and special education staff, and staff of other agencies and organizations and private school staff providing services for special education student.
 - Training for classified staff in the state recommended core competencies will occur through mentorship programs and ESD training for special education
 - Staff development funds are available for professional development, based on budgetary allotments.

Public Participation

WSD will:

- Invite teachers to participate in planning at least annually at the school .
- Invite parents, families, and other interested parties to participate in planning to meet goals outlined by WSD's Strategic Plan.
- Other locally determined strategies for providing opportunities for participation in planning may include the use of surveys, questionnaires, community forums, interagency planning meetings and/or other civic meetings.
- Any policies and procedures and any required evaluation plan and reports relating to the Part B program will be made readily available to parents and other members of the general public through the Director of Special Education & Student Programs' office. A notice regarding the availability is given to all parents at the time of admissions, during IEP (Individual Education Plan) meetings, MDT (Multi-Disciplinary Team) meetings and suspension meetings.

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